

REFERENCE TITLE: redevelopment; eminent domain; condemnation; prohibition

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2445

Introduced by
Representatives Farnsworth, Burges, Gray C, Murphy, Pearce, Rosati,
Senator Bee: Representatives Biggs, Boone, Gorman, Stump, Senators Burns,
Gould, Harper, Johnson

AN ACT

AMENDING SECTIONS 9-441.02, 35-701, 35-706, 35-708, 35-726, 41-1362, 42-6203, 42-6209, 48-571, 48-574 AND 48-709, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 12, ARTICLE 3, ARIZONA REVISED STATUTES; RELATING TO SLUM CLEARANCE AND REDEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-441.02, Arizona Revised Statutes, is amended to
3 read:

4 9-441.02. Powers of municipalities

5 ~~A.~~ A municipality has the authority to carry out ~~the provisions of~~
6 this article, including the following:

7 1. Enter into contracts or leases with developers of housing
8 development projects containing covenants, restrictions and conditions
9 regarding the use of the property for residential purposes.

10 2. Finance or refinance, by loan, grant, lease or otherwise contract
11 with private developers to, construct, purchase, acquire, own, modify,
12 maintain, improve, sell, operate, develop or manage housing development
13 projects, and pay the costs of any housing development project from the
14 proceeds of bonds or other obligations of the municipality or any other
15 monies of the municipality, or from any contributions or loans by persons,
16 corporations, partnerships or other entities, all of which the municipality
17 is authorized to receive, accept and use.

18 3. Encourage and promote the improvement and revitalization of a
19 housing development area and make, contract for or otherwise cause to be made
20 long-range proposals for the housing development area.

21 4. Enter into contracts necessary to effectuate the purposes of this
22 article.

23 5. Do all things necessary or convenient to carry out the powers
24 conferred by this article, except acquire real property by eminent domain for
25 the purpose of this article unless a property owner voluntarily offers the
26 property owner's real property for sale.

27 ~~B. This section does not affect the authority of local governing~~
28 ~~bodies to acquire property by eminent domain in slum or blighted areas~~
29 ~~established under title 36.~~

30 Sec. 2. Section 35-701, Arizona Revised Statutes, is amended to read:

31 35-701. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Corporation" means any corporation organized as an authority as
34 provided in this chapter.

35 2. "Designated area" means any area of this state which is ~~either~~
36 ~~designated pursuant to section 36-1479 as a slum or blighted area as defined~~
37 ~~in section 36-1471,~~ designated by regulation as a pocket of poverty or a
38 neighborhood strategy area by the United States department of housing and
39 urban development pursuant to title I of the housing and community
40 development act of 1977 (P.L. ~~108-6~~ 95-128; 42 United States Code sections
41 5301 through 5320), as amended, and the department of housing and urban
42 development act (P.L. ~~108-6~~ 89-174; 42 United States Code section 3535(d)),
43 ~~OR~~ designated by the United States department of housing and urban
44 development as an empowerment or enterprise zone pursuant to the federal
45 omnibus budget and reconciliation act of 1993 (P.L. ~~108-6~~ 103-66; 26 United

1 States Code section 1391(g)), ~~or an area certified as an enterprise zone~~
2 pursuant to section 41-1524, subsection B.

3 3. "Governing body" means:

4 (a) The board or body in which the general legislative powers of the
5 municipality or the county are vested.

6 (b) The Arizona board of regents with respect to a corporation formed
7 with the permission of the Arizona board of regents.

8 4. "Income" means gross earnings from wages, salary, commissions,
9 bonuses or tips from all jobs, net earnings from such person's or family's
10 own nonfarm business, professional practice or partnership, and net earnings
11 from such person's or family's own farm. Income includes income, other than
12 earnings, that consists of amounts received from social security or railroad
13 retirement, interest, dividends, veterans payments, pensions and other
14 regular payments, public assistance or welfare payments, including aid for
15 dependent children, old age assistance, general assistance and aid to the
16 blind or totally disabled, but excluding separate payments for hospital or
17 other medical care.

18 5. "Manufactured house" means a structure that is manufactured in a
19 factory after June 15, 1976, that is delivered to a homesite in more than one
20 section and that is placed on a permanent foundation. The dimensions of the
21 completed house shall not be less than twenty feet by forty feet, the roof
22 must be sloping, the siding and roofing must be the same as those found in
23 site-built houses and the house must be eligible for thirty year real estate
24 mortgage financing.

25 6. "Municipality" or "county" means the Arizona board of regents or
26 any incorporated city or town, including charter cities, or any county in
27 this state in which a corporation may be organized and in which it is
28 contemplated the corporation will function.

29 7. "Persons of low and moderate income" means,~~for the purposes of~~
30 ~~financing owner occupied single family dwelling units in areas which the~~
31 ~~municipality has found, pursuant to section 36-1479, to be slum or blighted~~
32 ~~areas, as defined in section 36-1471, persons and families whose income does~~
33 ~~not exceed two and one-half times the median family income of this state. In~~
34 ~~all other areas it means~~ persons and families whose income does not exceed
35 one and one-half times the median family income of this state.

36 8. "Project" means any land, any building or any other improvement and
37 all real and personal properties, including machinery and equipment whether
38 or not now in existence or under construction and whether located within or
39 without the municipality or county approving the formation of the
40 corporation, that are suitable for any of the following:

41 (a) With respect to a corporation formed with the permission of a
42 municipality or county other than the Arizona board of regents:

43 (i) Any enterprise for the manufacturing, processing or assembling of
44 any agricultural or manufactured products.

1 (ii) Any commercial enterprise for the storing, warehousing,
2 distributing or selling of products of agriculture, mining or industry, or of
3 processes related thereto, including research and development.

4 (iii) Any office building or buildings for use as corporate or company
5 headquarters or regional offices or the adaptive use for offices of any
6 building within this state that is on the national register of historic
7 places or rehabilitation of residential buildings located in registered
8 historic neighborhoods.

9 (iv) A health care institution as defined in section 36-401.

10 (v) Residential real property for dwelling units located within the
11 municipality or county approving the formation of the corporation and, in the
12 case of a county, whether or not also within a municipality that is within
13 the county.

14 (vi) Repairing or rehabilitating single family dwelling units or
15 constructing or repairing residential fences and walls.

16 (vii) Convention or trade show facilities.

17 (viii) Airports, docks, wharves, mass commuting facilities, parking
18 facilities or storage or training facilities directly related to any of the
19 facilities as provided in this item.

20 (ix) Sewage or solid waste disposal facilities or facilities for the
21 furnishing of electric energy, gas or water.

22 (x) Industrial park facilities.

23 (xi) Air or water pollution control facilities.

24 (xii) Any educational institution that is operated by a nonprofit
25 educational organization that is exempt from taxation under section 501(c)(3)
26 of the United States internal revenue code and that is not otherwise funded
27 by state monies, any educational institution or organization that is
28 established under title 15, chapter 1, article 8 and that is owned by a
29 nonprofit organization, any private nonsectarian school or any private
30 nonsectarian organization established for the purpose of funding a joint
31 technological education school district.

32 (xiii) Research and development facilities.

33 (xiv) Commercial enterprises, including facilities for office,
34 recreational, hotel, motel and service uses if the facilities authorized by
35 this item are to be located in a designated area.

36 (xv) A child welfare agency, as defined in section 8-501, owned and
37 operated by a nonprofit organization.

38 (xvi) A transportation facility constructed or operated pursuant to
39 title 28, chapter 22, article 1 or 2.

40 (xvii) A museum operated by a nonprofit organization.

41 (xviii) Facilities owned or operated by a nonprofit organization
42 described in section 501(c) of the United States internal revenue code of
43 1986 that is primarily engaged in delivering community services on that
44 property consisting of fitness programs, camping programs, health and
45 recreation services, youth programs, child care, senior citizen programs,

1 individual and family counseling, employment and training programs, services
2 for individuals with disabilities, meals, feeding programs or disaster
3 relief.

4 (xix) New or existing correctional facilities that contract
5 exclusively with the state department of corrections or the department of
6 juvenile corrections for the housing of inmates or committed youths.

7 (b) With respect to a corporation formed with the permission of the
8 Arizona board of regents, any facility consisting of classrooms, lecture
9 halls or conference centers or any facility for research and development or
10 for manufacturing, processing, assembling, marketing, storing and
11 transferring items developed through or connected with research and
12 development or in which the results of such research and development are
13 utilized, but only if the facility is located in an area designated as a
14 research park by the Arizona board of regents.

15 9. "Property" means any land, improvements thereon, buildings and any
16 improvements thereto, machinery and equipment of any and all kinds necessary
17 to a project and any other personal properties deemed necessary in connection
18 with a project.

19 10. "Research park" means an area of land that has been designated by
20 the Arizona board of regents as a research park for a university and that, at
21 the date of designation, is owned by this state or by the Arizona board of
22 regents.

23 11. "Single family dwelling unit" includes any new, used or
24 manufactured house that meets the insuring requirements of the federal
25 housing administration, the veterans administration or any other insuring
26 entity of the United States government or any private mortgage insurance or
27 surety company that is approved by the federal home loan mortgage corporation
28 or the federal national mortgage association.

29 Sec. 3. Section 35-706, Arizona Revised Statutes, is amended to read:
30 35-706. Corporate powers

31 A. In addition to the powers granted to an industrial development
32 authority by law, the authority shall have the following powers, together
33 with all powers incidental or necessary for the performance of the following:

34 1. To acquire, whether by purchase, exchange, gift, lease or otherwise
35 establish, construct, improve, maintain, equip and furnish one or more
36 projects.

37 2. To lease to others any or all of its projects, to charge and
38 collect rent and to terminate any lease upon the failure of the lessee to
39 comply with any of the obligations of the lease.

40 3. To sell, exchange, donate and convey to others any or all of its
41 projects or properties upon terms and conditions as its board of directors
42 may deem advisable, including the power to receive for any sale the note or
43 notes of the purchaser of the project or property, whenever its board of
44 directors finds the action to further advance the interest of the
45 corporation.

1 4. To issue its bonds for the purpose of carrying out any of its
2 powers.

3 5. To mortgage and pledge any or all of its projects and properties,
4 whether owned or acquired, and to pledge the revenues, proceeds and receipts
5 or any portion of the revenues, proceeds and receipts from a project as
6 security for the payment of the principal of and interest on any bonds so
7 issued and any agreements made in connection therewith.

8 6. To contract with and employ others to provide and to pay
9 compensation for professional services and other services as the board of
10 directors deems necessary for the financing of projects and for the business
11 of the corporation.

12 7. To refund outstanding obligations incurred by an enterprise to
13 finance the cost of a project when the board of directors finds that the
14 refinancing is in the public interest.

15 8. To invest and reinvest funds under the control of the corporation
16 and bond proceeds pending application thereof to the purposes for which the
17 bonds were issued, subject only to the provisions of any bond resolution,
18 lease or other agreement entered into by the board of directors.

19 9. To make secured or unsecured loans for the purpose of financing or
20 refinancing the acquisition, construction, improvement, equipping or
21 operating of a project and to charge and collect interest on the loans and
22 pledge the proceeds of loan agreements as security for the payment of the
23 principal and interest of any bonds, or designated issues of bonds, issued by
24 the corporation, and any agreements made in connection with the loan,
25 whenever the board of directors finds the loans to further advance the
26 interest of the corporation or the public.

27 10. To acquire and hold obligations of any kind to carry out any of its
28 purposes.

29 11. Subject to ~~the provisions of~~ this section, to make loans to any
30 bank, savings and loan institution, credit union or other mortgage lender,
31 whether organized or existing under the laws of this state, another state or
32 the United States, which is qualified to do business in this state, for the
33 purpose of enabling the institutions to make loans to finance the
34 acquisition, construction, improvement or equipping of projects which are
35 owner-occupied single family dwelling units to be occupied by persons of low
36 and moderate income, as determined by the corporation. The loans shall be
37 fully secured in the same manner as deposits of public funds or by loans
38 secured by mortgages, deeds of trust or other security instruments guaranteed
39 or insured by the United States, or any instrumentality thereof, or by any
40 private mortgage insurance or surety company which is approved by the federal
41 home loan mortgage corporation or the federal national mortgage association
42 and which is licensed to do business in this state, if the private mortgage
43 insurance ~~shall be~~ IS in a dollar amount sufficient to satisfy the mortgage
44 insurance requirements for loans eligible to be purchased by the federal home
45 loan mortgage corporation or the federal national mortgage association or any

1 other agency or department of the United States. The security shall not be
2 necessary if the bonds issued to make the loans are guaranteed or insured by
3 an agency, department or instrumentality of the United States. Any bonds
4 issued to make loans shall be ratable as "A" or better by a nationally
5 recognized bond rating agency.

6 12. Subject to ~~the provisions of~~ this section, to purchase or enter
7 into advance commitments to purchase loans or any loan interests secured by
8 mortgages, deeds of trust or other security instruments relating to projects
9 which are owner-occupied single family dwelling units from or with any bank,
10 savings and loan institution, credit union or other mortgage lender, whether
11 organized or existing under the laws of this state, another state or the
12 United States, which is qualified to do business in this state, on terms and
13 conditions as may be determined by the corporation. The purpose of the
14 purchases shall be to finance directly or indirectly the acquisition,
15 construction, improvement or equipping of projects which are owner-occupied
16 single family dwelling units to be occupied by persons of low and moderate
17 income. If the bonds issued to make purchases are not guaranteed or insured
18 by an agency, department or instrumentality of the United States or secured
19 by a letter of credit, insurance policy, surety bond or other credit facility
20 from a financial institution or a combination of such instruments, the
21 purchased loans shall be guaranteed or insured by the United States or any
22 agency, department, ~~or~~ instrumentality thereof, or by any private mortgage
23 insurance or surety company which is approved by the federal home loan
24 mortgage corporation or the federal national mortgage association or secured
25 by a letter of credit, insurance policy, surety bond or other credit facility
26 from a financial institution or a combination of such instruments. In the
27 case of private mortgage insurance, the insurance shall be in a dollar amount
28 sufficient to satisfy the mortgage insurance requirements for loans eligible
29 to be purchased by the federal home loan mortgage corporation or the federal
30 national mortgage association or any other agency or department of the United
31 States. Any bonds issued to purchase loans shall be ratable as "A" or better
32 by a nationally recognized bond rating agency. If the purchased loans have
33 not been originated on behalf of the corporation to directly finance
34 projects, the corporation shall require that the institution receiving
35 proceeds from the sale of the loans use the proceeds to make loans to finance
36 or refinance the acquisition, construction, improvement or equipping of
37 projects which are owner-occupied single family dwelling units to be occupied
38 by persons of low and moderate income, as determined by the corporation.

39 13. To elect not to issue an amount of qualified mortgage revenue bonds
40 which it may otherwise issue during any calendar year and to issue instead
41 mortgage credit certificates pursuant to a qualified mortgage credit
42 certificate program as defined in section 35-901.

43 14. To make loans to any person or entity owning residential property
44 or to make loans to any bank, savings and loan association, credit union or
45 other mortgage lender, or to purchase or enter into advance commitments to

1 purchase funding for the repair or improvement of property related to
2 residential or neighborhood improvement projects. An authority may issue its
3 bonds or incur other obligations to fund loans or purchases. An authority
4 shall establish the provisions relating to bonds or other obligations,
5 including the security for the loans, and shall establish the guidelines for
6 the approval, funding, purchasing and security of the loans.

7 15. To enter into contracts and execute any agreements or instrument
8 and do any other act necessary or appropriate to carry out its purposes.

9 B. The corporation shall not have the power to operate any project as
10 a business other than as lessor or seller nor shall any corporation make any
11 loans pursuant to subsection A, paragraph 9 of this section for projects
12 which are owner-occupied single family dwelling units except by utilizing as
13 its contract agent a mortgage lender, whether organized or existing under the
14 laws of this state, another state or the United States, which is qualified to
15 do business in this state. Any project established pursuant to subsection A,
16 paragraph 14 of this section is not required to use a mortgage lender as its
17 contract agent. The corporation shall not permit any funds derived from the
18 sale of its bonds to be used, loaned or provided for the acquisition of any
19 facilities of a public utility or public service corporation, except as
20 provided in section 35-701. The corporation shall comply with ~~the provisions~~
21 ~~of~~ title 38, chapter 3, article 3.1.

22 C. A person's or family's eligibility for an owner-occupied single
23 family dwelling unit financed pursuant to subsection A, paragraph 11, 12 or
24 13 of this section shall be determined by considering the person's or
25 family's income. Owner-occupied single family dwelling units shall only be
26 financed as provided in subsection A, paragraphs 11, 12 and 13 of this
27 section ~~unless the owner-occupied single family dwelling units are located in~~
28 ~~an area designated pursuant to section 36-1479 as a slum or blighted area as~~
29 ~~defined in section 36-1471 by a municipality having a population of more than~~
30 ~~two hundred fifty thousand persons according to the most recent United States~~
31 ~~decennial census or a special census conducted in accordance with section~~
32 ~~42-5033.~~

33 D. In the exercise of its powers authorized in this section with
34 respect to projects which are owner-occupied single family dwelling units to
35 be occupied by persons of low and moderate income and financed pursuant to
36 subsection A, paragraphs 11 and 12 of this section, the corporation shall
37 establish, subject to approval by the governing body of the authorizing
38 county or municipality, standards and requirements applicable to the purchase
39 of loans or the making of loans to mortgage lenders, including:

40 1. The eligibility of mortgage lenders, including the requirement that
41 all mortgage lenders be approved as mortgagees by the federal housing
42 administration and the veterans administration and be approved as sellers and
43 servicers of mortgage loans by the federal national mortgage association or
44 federal home loan mortgage corporation.

1 2. The time within which mortgage lenders must make commitments and
2 disbursements for mortgage loans.

3 3. The character of residences to be financed by mortgage loans.

4 4. The eligibility of persons of low and moderate income, including
5 the requirement that no person of low and moderate income may receive, more
6 than once in a three year period, a mortgage loan financed directly or
7 indirectly from the proceeds of bonds issued by the corporation.

8 5. The terms and conditions of mortgage loans to be acquired.

9 6. The amounts and types of insurance coverage required on residences,
10 mortgages and bonds.

11 7. The representations and warranties of mortgage lenders confirming
12 compliance with the standards and requirements.

13 8. Restrictions as to interest rate and other terms of mortgage loans
14 and the return realized on mortgage loans by mortgage lenders.

15 9. The type and amount of collateral security to be provided to assure
16 repayment of any loans from the corporation and to assure repayment of bonds.

17 10. Assignment of the mortgage loans to a trustee acting on behalf of
18 the corporation which shall be either a bank or trust company doing business
19 in this state, having an officially reported combined capital surplus,
20 undivided profits and reserves of not less than fifteen million dollars.
21 Trustees must be approved to sell mortgages to and service mortgages for the
22 federal national mortgage association and the federal home loan mortgage
23 corporation.

24 11. Any other matters related to the purchase of mortgage loans or the
25 making of loans to mortgage lenders deemed relevant by the corporation. In
26 establishing standards and requirements, the corporation shall be guided by
27 the following standards:

28 (a) The amount of mortgage monies proposed to be made available in the
29 area is to be reasonably related to the demand for mortgage monies.

30 (b) For projects of owner-occupied single family dwelling units to be
31 occupied by persons of low and moderate income and financed pursuant to
32 subsection A, paragraphs 11 and 12 OF THIS SECTION, at least ten per cent of
33 all mortgage monies proposed to be made available by the corporations ~~other~~
34 ~~than mortgage monies reserved for any period to finance mortgage loans on~~
35 ~~residences located within an area designated as a slum or blighted area as~~
36 ~~defined in section 36-1471~~ shall be reserved for at least a three month
37 period for the financing of mortgage loans on manufactured housing unless the
38 department of commerce makes a determination that any bonds issued to make
39 loans will not be ratable as "A" or better by a nationally recognized bond
40 rating agency, in which case no such reservation is required. If all the
41 mortgage monies reserved for manufactured housing are not committed or used
42 to make mortgage loans during this three month period, the mortgage lender
43 may allocate the remaining monies to finance mortgage loans on any single
44 family dwelling unit.

1 (c) Any departure from the level of commitment fees, origination fees
2 or servicing fees normally charged by a mortgage lender is to be justified in
3 the context of the transaction.

4 (d) The costs, fees and expenditures associated with the issuance of
5 bonds are to be reasonably related to the services provided.

6 E. Only corporations, the formations of which have been approved by
7 the governing body of a county, ~~—~~ having a population of more than nine per
8 cent of the total state population computed according to the most recent
9 United States decennial census or by the governing body of a municipality
10 having a population of more than nine per cent of the total state population
11 computed, ~~—~~ according to the most recent United States decennial census, shall
12 have the powers granted in subsection A, paragraphs 11, 12 and 13 of this
13 section. Except as provided in section 35-913, subsections E and F, a
14 corporation shall not exercise the powers granted in subsection A, paragraphs
15 11, 12 and 13 of this section outside of its jurisdiction. For the purposes
16 of a refunding of any mortgage revenue bond issued before January 1, 2000,
17 the proceeds from the refunding may be used outside the jurisdiction of the
18 corporation issuing the refunding bonds except the corporation issuing the
19 refunding bonds shall obtain the consent from another corporation with powers
20 granted in subsection A, paragraphs 11, 12 and 13 of this section if the
21 proceeds of the refunding are to be used within the jurisdiction of that
22 corporation. For the purposes of exercising the powers granted in subsection
23 A, paragraphs 11, 12 and 13 of this section, the jurisdiction of a
24 corporation formed on behalf of a county includes all incorporated and
25 unincorporated territory in the county.

26 F. A corporation may not permit proceeds of bonds or a qualified
27 mortgage credit certificate program to be used to finance projects which are
28 owner-occupied single family dwelling units within the corporate limits of an
29 incorporated city or town unless the governing body of the city or town has
30 approved the general location and character of the residences to be
31 financed. The corporation ~~shall~~, prior to the issuance of bonds or mortgage
32 credit certificates for that purpose, **SHALL** give written notice to the
33 governing body of each city or town in which it intends to permit proceeds of
34 an issue of bonds or mortgage credit certificates to be used to finance
35 projects which are owner-occupied single family dwelling units and of the
36 general location and character of the residences which may be financed. The
37 governing body of the city or town shall be deemed to have given its approval
38 unless it has denied approval by formal action of the governing body within
39 twenty-one days after receiving the written notice from the corporation.
40 Approvals given or deemed to have been given with respect to use of proceeds
41 of an issue of bonds or mortgage credit certificates under this subsection
42 may not be withdrawn. Denials may be withdrawn by the governing body of a
43 city or town and approval may be given thereafter if the corporation issuing
44 the bonds or mortgage credit certificates approves the withdrawal of the
45 denial.

1 G. Two or more corporations with the powers granted by subsection E of
2 this section may provide:

3 1. That a corporation, the formation of which was approved by the
4 governing body of a county or city, may exercise the powers granted in
5 subsection A, paragraphs 11, 12 and 13 of this section, with respect to
6 owner-occupied single family dwelling units located in all counties and
7 cities which are parties to a cooperative agreement.

8 2. For the joint exercise by two or more corporations, each formed
9 with the approval of a governing body executing the cooperative agreement, of
10 the powers granted in subsection A, paragraphs 11, 12 and 13 of this section,
11 with respect to owner-occupied single family dwelling units located in all
12 counties and cities which are parties to the cooperative agreement. The
13 agreement shall specify the calendar year or years for which it is effective,
14 the means by which the agreement may be terminated prior to the expiration of
15 the calendar year or years and the aggregate principal amount of bonds which
16 may be issued by the designated corporation or corporations to exercise the
17 powers pursuant to the agreement. The corporation or corporations designated
18 in the agreement to exercise the powers in the counties and cities which are
19 parties to the agreement are the only corporation or corporations authorized
20 and having jurisdiction to exercise the powers and to issue bonds to carry
21 out the powers in the counties and cities while the agreement is in
22 effect. The combined jurisdictions of all the counties and cities which are
23 parties to the cooperative agreement are the jurisdictions of the corporation
24 or corporations designated to exercise the powers granted in subsection A,
25 paragraphs 11, 12 and 13 of this section within the meaning of the mortgage
26 subsidy bond tax act of 1980 (P.L. 96-499; 26 United States Code section
27 103A).

28 H. It shall not be a conflict of interest under title 38, chapter 3,
29 article 8, and this chapter, for any trustee or any mortgage lender to enter
30 into loan agreements with, or to sell mortgage loans to, the corporation as
31 contemplated in subsection A, paragraphs 11, 12 and 13 of this section, act
32 for or under contract with the corporation as a mortgage originator,
33 servicer, paying agent or depository, act as holder or dealer of bonds of the
34 corporation, have as a director, officer or employee any member of the board
35 of directors of the corporation or any combination.

36 I. The department of economic security shall once in each calendar
37 year on or before March 1 determine the median family income of this state
38 for the purposes of this chapter.

39 J. All areas in this state which are ~~either~~ designated ~~pursuant to~~
40 ~~section 36-1479 as slum or blighted areas as defined in section 36-1471 or~~
41 ~~designated~~ as pockets of poverty by the United States department of housing
42 and urban development are designated as areas of chronic economic distress
43 within the meaning of the mortgage subsidy bond tax act of 1980 (P.L. 96-499;
44 26 United States Code section 103A).

1 K. Any corporation that is described in subsection E of this section
 2 and that desires to exercise the powers granted in subsection A, paragraphs
 3 11, 12 and 13 of this section, with respect to owner-occupied single family
 4 dwelling units located in two or more counties, may do so if the corporation,
 5 before issuing bonds or mortgage credit certificates for that purpose, gives
 6 written notice to the governing bodies of the other counties and their
 7 respective corporations, if any, of its intent to permit the proceeds of an
 8 issue of bonds or mortgage credit certificates to finance projects within its
 9 jurisdiction which are owner-occupied single family dwelling units. The
 10 governing body of a county and its respective corporation, if any, which have
 11 been given notice are deemed to have approved the use of the proceeds or
 12 mortgage credit certificates for owner-occupied single family dwelling units
 13 within their jurisdiction and approved the use of any state ceiling, as
 14 defined in section 35-901, unless approval is denied by formal action of the
 15 governing body or the board of directors of the corporation, if any, within
 16 twenty-one days after receiving written notice from the corporation. Absent
 17 a denial of approval as stated in this subsection, a cooperative agreement
 18 providing for the exercise of the powers granted in subsection A, paragraphs
 19 11, 12 and 13 of this section is deemed to exist among the applicable
 20 counties or corporations. Approvals given or deemed to have been given with
 21 respect to the matters stated in this subsection may not be withdrawn.
 22 Denials by the governing body of a county apply only to the unincorporated
 23 areas of the county. Denials may be withdrawn by the governing body of a
 24 county and approval may be given thereafter if the corporation issuing the
 25 bonds or mortgage credit certificates approves the withdrawal of the denial.
 26 Mortgage credit certificates and bond proceeds issued pursuant to this
 27 subsection shall be available on an equitable basis within each of the
 28 participating counties.

29 Sec. 4. Section 35-708, Arizona Revised Statutes, is amended to read:

30 35-708. Financing certain owner-occupied single family
 31 dwelling; exception

32 A. For purposes of section 35-701, paragraph 7, ~~in areas other than a~~
 33 ~~slum or blighted area,~~ the authority undertaking the bond issue shall set
 34 aside for sixty days thirty per cent of the mortgages for owner-occupied
 35 single family dwelling units for persons and families whose income is below
 36 the median family income of this state.

37 B. This section does not apply to projects described in section
 38 35-701, paragraph 8, subdivision (a), item (vi) or programs established
 39 pursuant to section 35-706, subsection A, paragraph 14.

40 Sec. 5. Section 35-726, Arizona Revised Statutes, is amended to read:

41 35-726. Approval of general plan before issuing bonds; fee;
 42 definition

43 A. Bonds shall not be issued by a corporation for the purpose of
 44 financing single family dwelling units pursuant to section 35-706, subsection
 45 A, paragraph 11 or 12 without approval of a general plan by its governing

body. The corporation shall submit a general plan for each respective series of bonds to its governing body. The general plan shall briefly describe:

1. The amount of the proposed bonds.
2. The maximum term of the bonds.
3. The maximum interest rate on the bonds.
4. The need for the bond issue.
5. The terms and conditions for originating or purchasing mortgage loans or making loans to lenders.
6. The area in which the single family dwelling units to be financed may be located.
7. The proposed fees, charges and expenditures to be paid for originators, servicers, trustees, custodians, mortgage administrators and others.

8. All insurance requirements with respect to mortgage loans, mortgaged property, mortgagors, originators, servicers and trustees.

9. The anticipated date of issuance of the bonds.

B. The governing body shall review general plans submitted by corporations pursuant to subsection A of this section. In reviewing the plans the governing body shall consider:

1. Whether the amount of the mortgage monies proposed to be made available is reasonably related to the demand for the mortgage monies.
2. Whether the terms of the general plan are justifiable in the context of the transaction and in the context of similar transactions.
3. Whether the fees, costs and expenditures as set forth in the general plan are reasonably related to the services provided.

4. For projects of owner-occupied single family dwelling units to be occupied by persons of low and moderate income and financed pursuant to section 35-706, subsection A, paragraphs 11 and 12, whether the proposed mortgage monies to be made available will fulfill a public purpose by providing housing for persons of low and moderate income or by encouraging single family developments in all participating jurisdictions, ~~including such jurisdictions' slum or blighted areas as defined in section 36-1471.~~

C. The governing body shall approve or disapprove the general plan not later than thirty days after receipt of the plan. If the governing body does not act upon the general plan within thirty days from the date of receipt, the general plan shall be deemed approved. If a general plan is approved, the corporation may issue the series of bonds covered by the general plan with a total principal amount, maximum term and maximum interest rate no greater than that which is set forth in the general plan. The origination and servicing fees pertaining to mortgage loans to be financed in accordance with the general plan shall not exceed those proposed in the general plan. The corporation may vary other items in the general plan upon a finding that the variation is minor and that the variations will not impair the security for the bonds or substantially increase the cost of financing the single

1 family dwelling units and the findings of the corporation shall be
2 conclusive.

3 D. The governing body may charge any corporation submitting a general
4 plan for review a fee of not to exceed ten thousand dollars together with
5 reimbursement of its actual costs and expenses incurred in reviewing the
6 general plan.

7 E. A corporation shall not issue bonds, other than refunding bonds the
8 proceeds of which are used exclusively to refund a prior bond issue, to
9 finance a multifamily residential rental project, sanitarium, clinic, medical
10 hotel, rest home, nursing home, skilled nursing facility or life care
11 facility as prescribed in section 20-1801, unless the department approves the
12 project. The department, with or without a hearing, shall review the project
13 and consider at least the following factors:

14 1. The demand for and feasibility of the project in the area set forth
15 in the application to the corporation.

16 2. The terms and conditions of the proposed bonds.

17 3. The proposed use of bond proceeds.

18 4. The benefit to the public if the project provides rental housing
19 for persons of low and moderate income ~~or encourages rental housing in slum~~
20 ~~or blighted areas as defined in section 36-1471.~~

21 5. If the project consists of a nursing home, or a life care facility
22 as prescribed in section 20-1801, the benefit to the public of the project,
23 including the proposed rent, fees and other charges of the project in
24 relation to the level of services to be offered.

25 F. Subsection E of this section does not apply to bonds issued to
26 finance a sanitarium, clinic, medical hotel, rest home, nursing home, skilled
27 nursing facility, or life care facility as prescribed in section 20-1801, if
28 the facility is to be owned and operated by this state or a political
29 subdivision or agency of this state.

30 G. The department with or without a hearing shall approve or
31 disapprove the project not later than thirty days after receipt of the
32 request for approval. If the project is approved the corporation may issue
33 the bonds described in the approval request with the total principal amount,
34 maximum term and maximum interest rate no greater than as set forth in the
35 request. The department shall charge each applicant submitting a project
36 approval request pursuant to this subsection a fee of not to exceed five
37 thousand dollars together with reimbursement of its actual costs and expenses
38 incurred in reviewing the project. Beginning on October 1, 2002, the
39 department shall remit the fees to the state treasurer for deposit in the
40 Arizona department of housing program fund established by section 41-3957.

41 H. For the purposes of this section, "department" means the Arizona
42 department of housing.

43 Sec. 6. Repeal

44 Title 36, chapter 12, article 3, Arizona Revised Statutes, is repealed.

1 Sec. 7. Section 41-1362, Arizona Revised Statutes, is amended to read:
 2 41-1362. Powers and duties; governmental mall description; duty
 3 of city of Phoenix; general plan application

4 A. The commission may:

5 1. Accept gifts or grants of monies or other property from any person,
 6 including the United States or any agencies, departments or officers of the
 7 state.

8 2. Appoint and employ officers and employees as it deems necessary.

9 3. Prescribe rules as necessary to carry out ~~the provisions of~~ this
 10 article.

11 B. The commission shall:

12 1. Elect a chairman from among its members.

13 2. Develop and maintain and amend as necessary a comprehensive
 14 long-range general plan for the development of the governmental mall
 15 comprised of the area described in subsection C of this section.

16 3. Encourage public agencies as defined in section 11-951 to enter
 17 into intergovernmental agreements or contracts pursuant to title 11, chapter
 18 7, article 3 as necessary to implement the general plan for the development
 19 of the governmental mall.

20 4. Review and approve or disapprove in writing requests for permission
 21 to develop structures or sites or award construction contracts for new
 22 buildings or improvements within the governmental mall. The commission shall
 23 review requests submitted by the state or a political subdivision of this
 24 state in which the state or political subdivision has a contractual interest
 25 to ensure consistency with the approved general plan.

26 5. Review all planning activities within governmental mall boundaries.

27 6. Publish an annual report on the issues brought before the
 28 commission and its recommendations.

29 C. The governmental mall is comprised of the area with a western
 30 boundary of nineteenth avenue, a northern boundary of all lots abutting Van
 31 Buren street, an eastern boundary of seventh avenue and a southern boundary
 32 of the Harrison street alignment.

33 D. The city of Phoenix annually shall inform the commission of new
 34 major development projects and new major infrastructure improvements
 35 including but not limited to parks, streets and street-scaping within the
 36 downtown area redevelopment plan ~~as defined pursuant to section 36-1471.~~

37 E. If the general plan of the city, county or state agency for land
 38 development does not conform with the general plan developed by the
 39 commission for the development of the governmental mall, the general plan
 40 developed by the commission for the development of the governmental mall
 41 applies and shall be enforced.

42 Sec. 8. Section 42-6203, Arizona Revised Statutes, is amended to read:

43 42-6203. Rates of tax

44 A. Except as otherwise provided in this section, the tax authorized by
 45 this article shall be levied and collected at the following rates:

1 1. One dollar per square foot of gross building space for office
2 buildings with one floor above ground.

3 2. One dollar twenty-five cents per square foot of gross building
4 space for office buildings with more than one but fewer than eight floors
5 above ground.

6 3. One dollar seventy-five cents per square foot of gross building
7 space for office buildings with eight floors or more above ground.

8 4. One dollar fifty cents per square foot of retail building space,
9 including space that is devoted to the sale of tangible personal property,
10 restaurants, health clubs, hair salons, dry cleaners, travel agencies and
11 other retail services.

12 5. One dollar fifty cents per square foot of hotel or motel building
13 space.

14 6. Seventy-five cents per square foot of warehouse or industrial
15 building space.

16 7. Fifty cents per square foot of residential rental building space.

17 8. One hundred dollars per parking space located in a parking garage
18 or deck.

19 9. One dollar per square foot of all other government property
20 improvements not included in paragraphs 1 through 8 of this subsection.

21 B. The tax rate for government property improvements for which the
22 original certificate of occupancy was issued:

23 1. At least ten years but less than twenty years before the date the
24 tax is due is eighty per cent of the rate provided in subsection A of this
25 section.

26 2. At least twenty years but less than thirty years before the date
27 the tax is due is sixty per cent of the rate provided in subsection A of this
28 section.

29 3. At least thirty but less than forty years before the date the tax
30 is due is forty per cent of the rate provided in subsection A of this
31 section.

32 4. At least forty but less than fifty years before the date the tax is
33 due is twenty per cent of the rate provided in subsection A of this section.

34 5. Fifty or more years before the date the tax is due is zero.

35 C. If no certificate of occupancy can be located, dated aerial
36 photographs or other evidence of substantial completion may be used to
37 determine the age of the building for purposes of subsection B of this
38 section.

39 D. The tax rate for a government property improvement that was
40 constructed pursuant to a lease or development agreement entered into from
41 and after June 30, 1996 ~~and that is located outside a slum or blighted area~~
42 ~~established pursuant to title 36, chapter 12, article 3~~ is one and one-half
43 times the rate established by subsections A and B of this section.

44 E. Within the first twenty years after the issuance of the original
45 certificate of occupancy, the tax rate on the use or occupancy of a

1 government property improvement is twenty per cent of the rate established in
2 subsections A and B of this section for any of the following:

3 1. Government property improvements that are subject to leases or
4 agreements that were entered into before April 1, 1985, and options and
5 rights contained in the leases or agreements.

6 2. Government property improvements that are subject to leases entered
7 into based on a redevelopment contract, as defined in section 36-1471,
8 entered into before April 1, 1985.

9 3. Government property improvements that are subject to leases entered
10 into based on an agreement for a redevelopment project for which federal
11 grant monies have been received and that was entered into before April 1,
12 1985.

13 4. Government property improvements that are located at an airport
14 that was owned on or before January 1, 1988 by a county having a population
15 of four hundred thousand persons or less or by a city or town that is located
16 in a county having a population of four hundred thousand persons or less if
17 the property is used primarily for manufacturing, retail, distribution,
18 research or commercial purposes. In this paragraph, "commercial" includes
19 facilities for office, recreational, hotel, motel and service uses.

20 F. Within the first ten years after the issuance of the certificate of
21 occupancy, the tax rate on the use or occupancy of a government property
22 improvement that is located in a slum or blighted area established pursuant
23 to ~~title 36, chapter 12, article 3~~ STATE LAW BEFORE THE EFFECTIVE DATE OF
24 THIS AMENDMENT TO THIS SECTION, THAT resulted or will result in an increase
25 in property value of at least one hundred per cent and THAT is not eligible
26 for abatement pursuant to section 42-6209 is eighty per cent of the rate
27 established in subsections A and B of this section.

28 G. The tax rate to be applied under subsection A of this section shall
29 be determined by the predominant use to which the government property
30 improvement is devoted, except that in all cases the tax rate prescribed by
31 subsection A, paragraph 8 of this section shall be applied to any parking
32 garage or deck. If there is no single predominant use, the tax shall be
33 determined by applying the appropriate tax rate to the building space devoted
34 to each use identified in that subsection. For the purposes of this
35 subsection, the functional area of a government property improvement does not
36 include subsidiary, auxiliary or servient areas such as lobbies, stairwells,
37 mechanical rooms and meeting and banquet rooms. For THE purposes of this
38 subsection, "predominant use" means the use to which eighty-five per cent or
39 more of the functional area of a government property improvement is devoted.

40 H. Prime lessees of government property improvements who become
41 taxable or whose taxable status terminates during the calendar year in which
42 the taxes are due, including prime lessees subject to exemption or abatement
43 under sections 42-6208 and 42-6209, shall pay tax for that calendar year on a
44 pro rata basis.

Sec. 9. Section 42-6209, Arizona Revised Statutes, is amended to read:

42-6209. Abatement of tax for government property improvements in single central business district

A. A government lessor shall abate the tax provided for under this article for a limited period beginning when the certificate of occupancy is issued and ending eight years after the certificate of occupancy is issued on a government property improvement that is constructed either before or after July 20, 1996 and that meets the following requirements:

1. The improvement is located in a single central business district in a slum or blighted area that ~~is WAS~~ established pursuant to ~~title 36, chapter 12, article 3~~ STATE LAW BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION and is subject to a lease or development agreement entered into on or after April 1, 1985.

2. The government property improvement resulted or will result in an increase in property value of at least one hundred per cent.

B. Unless waived by the government lessor, the prime lessee shall apply for the abatement before the taxes under this article are due and payable in the first year after the certificate of occupancy is issued. The prime lessee shall notify the government lessor if the government property improvement no longer qualifies for abatement under this section.

Sec. 10. Section 48-571, Arizona Revised Statutes, is amended to read:

48-571. Definitions; appointment of officer

A. In this article and article 1 of this chapter, unless the context otherwise requires:

1. "Assessment" or "assessment roll" means a special assessment made under ~~the provisions of~~ this article.

2. "Block" means any parcel of ground, whether regular or irregular, which is bounded by streets, or by one or more streets and by one or more boundary lines of the city or town.

3. "Clerk" includes any person or official who performs the duties of clerk of the city or town.

4. "Contractor" includes the contractor's personal representative or assignee.

5. "Council" or "governing body" includes and means the body or board which by law is constituted the legislative department of an incorporated city or town.

6. "Delinquency" means delinquency in the payment of an assessment made under ~~the provisions of~~ this article.

7. "Designated area" means an area of the municipality which is ~~either designated pursuant to section 36-1479 as a slum or blighted area or~~ designated as a pocket of poverty or a neighborhood strategy area by the United States department of housing and urban development, pursuant to title I of the housing and community development act of 1977, as amended (P.L. 95-128; 42 United States Code sections 5301 through 5320) and the

1 department of housing and urban development act (P.L. 89-174; 42 United
2 States Code section 3535(d)).

3 8. "Engineer" includes any person who, under whatever official name,
4 is the civil engineer or surveyor of the city or town, and where there is no
5 elected or appointed official, then the engineer is the person who may be
6 appointed or employed by the council to perform the duties required of an
7 engineer under ~~the provisions of~~ this article.

8 9. "Improvement bond" means a bond issue under ~~the provisions of~~ this
9 article.

10 10. "Lighting plants" includes electric light plants, electric power
11 plants, gas plants, distribution systems, poles, parts, pipes, conduits,
12 wires, tanks, reservoirs, generators for gas or electricity, transmission
13 lines, towers, lamps, transformers of every character, machinery, apparatus,
14 equipment and all appliances and structures necessary or incidental to the
15 construction, installation or operation of a complete municipal electric
16 light, power and gas plant and distribution system, placed on the streets
17 improved, though extended beyond.

18 11. "Lot" includes any portion, piece, parcel or subdivision of land,
19 and includes property owned or controlled by any person as a railroad
20 right-of-way.

21 12. "Mayor" includes the chairman or president of the governing body.

22 13. "Municipality" or "city" includes incorporated cities and towns.

23 14. "Owner" means the person in whom, on the day the action or
24 proceeding is commenced, appears the legal title to the lot by deed recorded
25 in the recorder's office, or the person in possession of the lot under claim
26 of title, or exercising acts of ownership over the lot for the person, or as
27 the personal representative of the owner.

28 15. "Railroad" includes street railroad and interurban railroad.

29 16. "Sewers" includes tunnels, excavations, ditches, drains, conduits,
30 channels, outlets, outfalls, cesspools, manholes, catch basins, flush tanks,
31 septic tanks, connecting sewers of every character, machinery, apparatus,
32 equipment and all appliances and structures necessary or incidental to the
33 construction, installation or operation of a complete sewer system, for
34 either sanitary or drainage purposes.

35 17. "Street" includes avenues, alleys, highways, lanes, crossings,
36 intersections, courts, places and grounds now open or dedicated or hereafter
37 opened or dedicated to public use, and public ways.

38 18. "Street superintendent" or "superintendent" includes any person
39 who, under whatever official name, is charged with the care or supervision of
40 the streets of the city or town.

41 19. "Time of delinquency" means the time fixed when assessments become
42 delinquent.

43 20. "Treasurer" includes any person who, under whatever official name,
44 is the custodian of the funds of the city or town.

21. "Waterworks" includes pipes, hydrants, reservoirs, wells, pumps, pumping plants, conduits, settling basins, filtering plants of every character, machinery, apparatus, equipment and all appliances and structures necessary or incidental to the construction, installation or operation of a complete municipal waterworks system, for fire protection, or for domestic irrigation, mechanical or power purposes, placed on the streets improved, though extended beyond.

22. "Work" or "improvement" includes any or all of the improvements mentioned and authorized to be made in this ARTICLE and article 1 of this chapter and the construction, reconstruction and repair of all or any portion of the improvements, and all labor, services, incidental expenses and material necessary or incidental to the construction, reconstruction or repair.

B. In any city or town having no officer in this article designated, or performing like duties, the governing body may appoint a suitable person to discharge the duties.

Sec. 11. Section 48-574, Arizona Revised Statutes, is amended to read:

48-574. Improvement districts for operation, maintenance, repair and improvement of pedestrian malls, off-street parking facilities and parkings and parkways

A. In addition to the purposes for which an improvement district may be formed under ~~the provisions of~~ section 48-572, an improvement district may be formed for the sole purpose of the operation, maintenance, repair and improvements of pedestrian malls, off-street parking facilities, and parkings and parkways.

B. Subject to the powers granted and the limitations contained in this section, the powers and duties of the governing body of the municipality and the procedure to be followed shall be as provided in this article for other types of special improvement districts.

C. If a petition for the formation of an improvement district under ~~the provisions of~~ this section is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lienholders, the governing body, after verifying the property ownership and making a finding of that fact, shall adopt a resolution of intention to order the improvement pursuant to ~~the provisions of~~ section 48-576 and shall have immediate jurisdiction to adopt the resolution ordering the improvement pursuant to ~~the provisions of~~ section 48-581, without the necessity of the publication and posting of the resolution of intention provided for in section 48-578.

D. The governing body shall make annual statements and estimates of the expenses of the district, which shall be provided for either:

1. By the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district.

1 2. By assessment of the total sum upon the several lots, each
2 respectively in proportion to the benefits to be received by each lot.

3 E. If the expenses of the district are provided for by ad valorem
4 taxes, the governing body shall publish notice, have hearings and adopt the
5 taxes at the times and in the manners provided for incorporated cities and
6 towns by the applicable portions of title 42, chapter 17, article 3. The
7 governing body, on or before the third Monday in August of each year, shall
8 fix, levy and assess the amount to be raised by ad valorem taxes upon all of
9 the property of the district. If the expenses of the district are assessed
10 upon the several lots in proportion to the benefits received by each lot, the
11 governing body shall follow the procedures established in section 48-575 for
12 the assessment and collection of the assessments. All statutes providing for
13 the levy and collection of general county taxes, including the collection of
14 delinquent taxes and sale of property for nonpayment of taxes, shall be
15 applicable to the district taxes provided for under this section.

16 F. An improvement district formed under ~~the provisions of~~ this section
17 shall not be authorized to issue improvement bonds.

18 G. No improvement district formed under ~~the provisions of~~ this section
19 shall be authorized to engage in any activity other than as provided in
20 subsection A of this section. If the municipality is willing to participate
21 in the cost of the district, the governing body ~~may~~, by resolution, MAY
22 summarily order such participation.

23 H. The formation of an improvement district under ~~the provisions of~~
24 this section shall not prevent the subsequent establishment of improvement
25 districts for any other purpose authorized by law.

26 I. If, in the opinion of the governing body, any portion of the
27 territory of a district formed under this section is no longer benefited by
28 being a part of the district, the governing body ~~may~~, by resolution, MAY
29 summarily delete from the district formed under this section any area and may
30 form a new district from the balance of the original district formed under
31 this section.

32 J. If, in the opinion of the governing body, territory adjacent to a
33 district formed under this section would benefit from being a part of the
34 district, the governing body, by resolution, may include the territory in the
35 district formed under this section if the following conditions are met:

36 1. Improvements that meet the standards and specifications established
37 by the governing body have been constructed in the territory and will be used
38 for the purposes of the district.

39 2. Any required public dedications of property have been made or will
40 be made before the inclusion of the territory in the district.

41 3. Including the territory in the district will not adversely affect
42 the district.

43 4. Notice of the proposed inclusion of the territory in the district
44 has been published in five consecutive issues of a daily newspaper or two
45 consecutive issues of a weekly or semiweekly newspaper of general circulation

1 published in the municipality and a public hearing has been held to consider
2 the inclusion of the territory in the district.

3 5. Notice has been sent by first class mail at least ten days prior to
4 the hearing specified in paragraph 4 of this subsection with an accurate map
5 of the territory proposed for inclusion in the district to each owner of real
6 and personal property within the district and in the proposed area of
7 inclusion as shown on the statement furnished pursuant to subsection K of
8 this section that is now or would be subject to taxation by the district in
9 the event of inclusion of the proposed area.

10 K. The county assessor and the department of revenue, respectively,
11 shall furnish to the district within thirty days after a request a statement
12 in writing showing the name and the address of each owner of real and
13 personal property within the district and in the proposed area of inclusion
14 that is now or that would be subject to taxation by the district in the event
15 of inclusion of the proposed area.

16 L. Within ten days after the governing body adopts a resolution
17 pursuant to subsection J of this section, the municipality shall record the
18 resolution in the office of the county recorder in the county in which the
19 district is located to give notice of the inclusion of the territory in the
20 district to all property owners in the district. If, before the governing
21 body adopts the resolution pursuant to subsection J of this section, a
22 majority of the property owners, by area, of either the original district
23 formed under this section or the territory proposed to be included in the
24 district files with the governing board written objections to the proposed
25 inclusion of the territory, the territory shall not be included in the
26 district.

27 M. Within ten days after adoption of the resolution of intention to
28 order the improvement pursuant to section 48-576, the municipality shall
29 record the resolution in the office of the county recorder in the county in
30 which the district is located to give notice of formation of the district to
31 all property owners within the district.

32 N. For the purposes of this subsection, a property owner is an owner
33 of real property, exclusive of mortgagees and other lienholders, that is
34 within an improvement district that was formed as prescribed by this section.
35 A property owner may petition the governing body to dissolve the district
36 pursuant to the following procedures:

37 1. A property owner shall file with the clerk of the governing body in
38 which the district is located a written notice of the property owner's intent
39 to circulate a petition to dissolve the district. The notice shall include
40 the name, address and telephone number of at least one property owner living
41 within the district who intends to circulate the petition, the name, location
42 and general purpose of the district which is to be dissolved and a true and
43 concise statement of two hundred words or less explaining the advantages of
44 dissolving the district. A petition shall not be circulated for thirty days

1 after the property owner files with the governing body the notice of intent
2 to circulate a dissolution petition.

3 2. The governing body may provide a form of petition to be used to
4 dissolve the district. Any petition shall include the statement provided in
5 the notice of intent to circulate a petition regarding the advantages of
6 dissolving the district.

7 3. The governing body may provide a true and concise written statement
8 of two hundred words or less regarding the petition or dissolution of the
9 district. If so provided, the property owner must circulate this statement
10 affixed to the petition.

11 4. Property owners shall submit to the clerk of the governing body a
12 petition for the dissolution of an improvement district formed under this
13 section that purports to be signed by more than fifty per cent of the
14 property owners in the district.

15 5. Within twenty days of receipt of the signed petition, the governing
16 body shall verify that the petition is signed by more than fifty per cent of
17 the property owners as set forth in paragraph 4 of this subsection.

18 6. If the governing body finds the petition contains valid signatures
19 of more than fifty per cent of the property owners, the governing body shall
20 set the date for dissolution of the district within ninety days. The
21 district may continue to operate after dissolution only as needed to collect
22 money and make payments on any outstanding district obligations.

23 7. Each property in the district with outstanding assessments or liens
24 attached shall remain subject to those assessments or liens for payment of
25 the existing obligations of the district, notwithstanding dissolution of the
26 district.

27 8. If a district formed under this section subsequently dissolves as
28 prescribed in this subsection, the governing body may not attempt to form any
29 district for the same purpose for at least two years after the date the
30 district is dissolved if the proposed district includes lands formerly
31 located within the dissolved district.

32 ~~0. Districts that are located in slum or blighted areas as defined in~~
33 ~~section 36-1471 are exempt from subsection N of this section.~~

34 Sec. 12. Section 48-709, Arizona Revised Statutes, is amended to read:

35 48-709. Powers of a community facilities district

36 A. In addition to the powers otherwise granted to a district pursuant
37 to this article, a district may to further the general plan:

38 1. Enter into contracts and expend monies for any public
39 infrastructure purpose with respect to the district.

40 2. Enter into intergovernmental agreements as prescribed in title 11,
41 chapter 7, article 3 for the planning, design, inspection, ownership,
42 control, maintenance, operation or repair of public infrastructure or the
43 provision of enhanced municipal services by the municipality in the district.

1 3. Sell, lease or otherwise dispose of district property if the sale,
2 lease or conveyance is not a violation of the terms of any contract or bond
3 resolution of the district.

4 4. Reimburse the municipality for providing enhanced municipal
5 services in the district.

6 5. Operate, maintain and repair public infrastructure.

7 6. Establish, charge and collect user fees, rates or charges for the
8 use of any public infrastructure or service.

9 7. Employ staff, counsel and consultants.

10 8. Reimburse the municipality or county for staff and consultant
11 services and support facilities supplied by the municipality or county.

12 9. Accept gifts or grants and incur and repay loans for any public
13 infrastructure purpose.

14 10. Enter into agreements with landowners and the municipality or
15 county for the collection of fees and charges from landowners for public
16 infrastructure purposes, the advance of monies by landowners for public
17 infrastructure purposes or the granting of real property by the landowner for
18 public infrastructure purposes.

19 11. By resolution, levy and assess the costs of any public
20 infrastructure purpose on any land benefited in the district.

21 12. Pay the financial, legal and administrative costs of the district.

22 13. Enter into contracts, agreements and trust indentures to obtain
23 credit enhancement or liquidity support for its bonds and process the
24 issuance, registration, transfer and payment of its bonds and the
25 disbursement and investment of proceeds of the bonds.

26 14. With the consent of the governing body of the municipality or
27 county which formed the district, enter into agreements with persons outside
28 of the district to provide services to persons and property outside of the
29 district.

30 15. Use public easements and rights-of-way in or across public
31 property, roadways, highways, streets or other thoroughfares and other public
32 easements and rights-of-way, whether in or out of the geographical limits of
33 the district, the municipality or the county.

34 B. This article does not authorize:

35 1. A district to acquire, construct, operate or maintain an electric
36 generation or distribution system or natural gas distribution system without
37 the written consent of any affected public service corporation, electric
38 cooperative, agricultural improvement or power district or other district
39 described in article XIII, section 7, Constitution of Arizona, the service
40 area of which encompasses all or part of the district, if that entity is
41 providing or is capable of adequately providing electrical utility service or
42 natural gas utility service in the district.

43 2. A district to provide service outside its boundaries without the
44 written consent of any affected public service corporation, electric
45 cooperative, agricultural improvement or power district or other district

1 described in article XIII, section 7, Constitution of Arizona, with a service
2 area that lies outside of the district, if that entity is providing or is
3 capable of adequately providing electrical utility service or natural gas
4 utility service in the area that the district proposes to serve.

5 C. If a district is granted written consent pursuant to this section,
6 the district shall provide a copy to the governor, the president of the
7 senate, the speaker of the house of representatives and each commissioner of
8 the Arizona corporation commission no later than thirty days after consent is
9 granted.

10 D. In connection with any power authorized by statute, the district
11 may:

- 12 1. Contract.
- 13 2. Enter into intergovernmental agreements pursuant to title 11,
14 chapter 7, article 3.
- 15 3. Adopt and change a seal.
- 16 4. Sue and be sued.
- 17 5. Enter into development agreements, as defined in section 9-500.05.
- 18 6. Exercise the same right and power of eminent domain as a public
19 service corporation pursuant to title 12, chapter 8, articles 2 and 3 to
20 acquire any property or right-of-way, except political subdivision, county,
21 state or federal property, for any public infrastructure purpose.

22 E. A district which proposes to provide domestic water service in the
23 certificated area of a public service corporation serving domestic water
24 shall provide just compensation to the public service corporation pursuant to
25 section 9-516.

26 F. Public infrastructure other than personalty may be located only in
27 or on lands owned by the state, a county, a municipality or the district or
28 dedicated or otherwise designated as public roadways, highways, streets,
29 thoroughfares, easements or rights-of-way, whether in or out of the district
30 or the municipality. Personalty may be used only for purposes authorized by
31 the district board. School sites and facilities, by agreement, may be
32 transferred to a school district.

33 G. An agreement pursuant to subsection A, paragraph 10 of this section
34 may include agreements to repay all or part of such advances, fees and
35 charges from the proceeds of bonds if issued or from advances, fees and
36 charges collected from other landowners or users or those having a right to
37 use any public infrastructure. A person does not have authority to compel
38 the issuance or sale of the bonds of the district or the exercise of any
39 taxing power of the district to make repayment under any agreement.

40 H. A district shall not contract with a municipality for enhanced
41 municipal services unless the area for which the services are to be provided
42 is designated by the municipality as ~~a slum or blighted area pursuant to~~
43 ~~title 36, chapter 12, or~~ an urban core business district of the municipality
44 determined by formal resolution of the municipality to be in need of enhanced

1 municipal services to encourage or preserve commercial development in the
2 area.

3 I. Notwithstanding title 34 or article 2 of this chapter, the district
4 at the option of the district board may enter into contracts for the
5 performance of district projects with landowners in the district after
6 calling for bids but before publishing notice of the award of a contract if
7 all of the following conditions are met:

8 1. The landowner or landowners own three-fourths or more of the total
9 land area of the district.

10 2. The landowner or landowners contract to perform the work at a cost
11 which does not exceed the cost specified in the bid of the bidder who would
12 have been awarded that bid.

13 3. The work for which the contract was let is to be financed pursuant
14 to this article.

15 4. All contracts and work executed pursuant to this section are
16 subject to those rules as the district board may prescribe.